

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16593
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On May 24, 2002, the Revenue Operations Bureau (RevOp) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), denying their claim of a refund in the amount of \$862 and proposing Idaho individual income tax and interest in the amount of \$644.46 for tax year 2001.

The taxpayers filed a timely protest and petition for redetermination. They did not request a conference. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

During the tax year 2001, [Redacted] worked for a company that went out of business without furnishing her with a W-2. The taxpayers did not have a pay stub or other record of [Redacted] income or federal and state withholding from that employer for the year. They were unsuccessful in their efforts to contact the employer, so they prepared their 2001 federal and state income tax returns using estimates of [Redacted] gross wages and withholding.

Idaho Code § 63-3045 describes the process when a deficiency is determined:

63-3045. Notice of redetermination or deficiency Interest.

(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission.

The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

RevOp sent a Notice of Deficiency Determination to the taxpayers denying their refund claim and advising them of a determination of a deficiency in tax and interest because the return did not include any verification of [Redacted] withholding.

The taxpayers “adamantly” objected and appealed the determination. The taxpayers said they did not think it was fair for the Tax Commission to accept their estimate of income but deny their estimate of withholding. The taxpayers’ file was transferred to the Legal/Tax Policy Division for administrative review.

In response to a letter advising the taxpayers of their appeal rights, [Redacted] telephoned the Tax Appeals Specialist. She said she had exhausted all ideas of trying to get the income and withholding information from her former employer. She said the company had filed bankruptcy in 2001. She was able to provide the name and telephone number of her former employer’s bankruptcy trustee. She said she was going to send a copy of her W-2 from the prior year so it could be used for a comparison of income and withholding for 2001.

On June 18, 2002, the Tax Commission received a copy of a 2000 W-2 issued to [Redacted] by the same employer that did not give her a W-2 for year 2001. The attached note said she was sure her wages were higher during 2001. Additionally, she said she had changed her 2001 withholding to reflect married with 3 exemptions rather than married with 2.

After a series of telephone calls to the trustee and others involved with the bankruptcy, the Tax Appeals Specialist was able to talk with one of the bankrupt company’s former owners. He said

he would look through his records and locate a W-2 for [Redacted].

On July 26, 2001, the former owner of the bankrupt company telephoned the Tax Commission to say he had mailed a 2001 W-2 to [Redacted]. When the taxpayers received the W-2 in the mail, they forwarded a copy to the Tax Commission. The attached note expressed the dismay [Redacted] felt at the amount of state withholding because she was sure it would have been a higher figure. She said, "I know this is wrong, but I can't prove it. So there is probably nothing we can do."

The Tax Commission has reviewed both the 2000 and 2001 W-2s [Redacted] former employer provided and the estimated figures the taxpayers submitted with their 2001 Idaho income tax return. The amount of withholding shown in each of the W-2s represents just over 2 % of the income was withheld for Idaho income taxes. (The 2000 figures reflected 2.65 % was withheld and the 2001 figures reflected 2.46 % withheld.) On the other hand, the taxpayers' estimated withholding represented 8.31 % of [Redacted] estimated income.

The W-2 prepared by [Redacted] former employer reported \$11,335.96 of gross income and \$279 of withholding while the taxpayers' estimate of income was \$18,082.21 with \$1,504.18 withheld. Although the taxpayers question the accuracy of [Redacted] former employer's figures, their only argument uses estimated amounts. The employer's figures reflect a withholding percentage that is within the parameters of the prior year's withholding percentage.

Therefore, absent conflicting evidence, the Tax Commission finds the W-2 prepared by [Redacted] former employer to be an accurate reflection of her income and withholding for 2001.

WHEREFORE, the Notice of Deficiency Determination dated May 24, 2002, is MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers receive a refund of tax in the amount of \$122 for tax year 2001.

An explanation of the taxpayers' right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this ____ day of _____, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]

[Redacted]

ADMINISTRATIVE ASSISTANT 1